

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**

# **A Bill**

**ACT 567 OF 1993**  
**HOUSE BILL 1499**

4 **By: Representatives Wren, Stephens, Steele, Hawkins, and Hunton**

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## **For An Act To Be Entitled**

8 "AN ACT TO ESTABLISH A STATE EMERGENCY RESPONSE COMMISSION  
9 AND LOCAL EMERGENCY PLANNING COMMITTEES TO MEET MINIMUM  
10 FEDERAL REQUIREMENTS SPECIFIED IN THE EMERGENCY PLANNING  
11 AND COMMUNITY RIGHT-TO-KNOW ACT OF 1986 (TITLE III OF  
12 PUBLIC LAW 99-499, 42 U.S.C.11001, ET SEQ.) TO PROVIDE FOR  
13 THE PUBLIC HEALTH, SAFETY AND WELFARE AS RELATED TO  
14 HAZARDOUS/TOXIC MATERIALS INCIDENTS, ACCIDENTS AND EVENTS  
15 OCCURRING WITHIN THE STATE OF ARKANSAS; AND FOR OTHER  
16 PURPOSES."

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## **Subtitle**

19 "TO ESTABLISH A STATE EMERGENCY RESPONSE COMMISSION."  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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SECTION 1. This act may be known and cited as the "Arkansas SERC/LEPC Act".

26 SECTION 2. Because of existing and increasing accidents, incidents and  
27 events involving hazardous and/or toxic materials in transport, manufacturing,  
28 storage, refining and usage and because of federal mandates imposed upon state  
29 and local governments under the provisions of the Emergency Planning and  
30 Community Right-to-Know Act of 1986, "EPCRA" (Title III of Public Law 99-499,  
31 42 U.S.C., et seq.), as implemented under Governor\_s Executive Order 91-1, it  
32 is hereby found and declared to be necessary:

33 (1) Create a State Hazardous Materials Emergency Response Commission  
34 which shall be empowered to take the necessary actions and activities required  
35 under state and federal laws, rules and regulations related to emergency  
36 planning, training, response and recovery activities for hazardous/toxic

1 materials;

2       (2) *Administer the provisions of the Federal Emergency Planning and*  
3 *Community Right-to-Know Act of 1986, (Title III of Public Law 99-499, 42*  
4 *U.S.C., et seq.).*

5       (3) Authorize the State Hazardous Materials Emergency Response  
6 Commission to investigate, review, implement and manage such standards and  
7 requirements as may be needed for the certification of *public* emergency  
8 responders and/or other related emergency personnel as may be subject to  
9 emergency response and/or recovery actions related to hazardous and toxic  
10 materials incidents, accidents or events.

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12       SECTION 3. As used in this act, unless the context otherwise requires:

13       (1) "State Emergency Response Commission" or "SERC" refers to the State  
14 Hazardous Materials Emergency Response Commission as specified in this act.

15       (2) "Emergency Response and/or recovery" refers to those actions  
16 required at the scene of a disaster/emergency, as described in Act 511 of  
17 1973, as amended, for public safety, health and welfare.

18       (3) "Emergency responder" refers to a person, or persons, enrolled in  
19 organizations which are entities of state or local government, or acting in  
20 behalf of state or local government, including, but not limited to  
21 professional or volunteer, law enforcement, fire fighting, emergency medical,  
22 emergency services or other *public emergency response* personnel who respond to  
23 the scene of a disaster with an assigned role in public safety and/or  
24 emergency services.

25       (4) "Hazardous/toxic materials" or "HAZMATS" means:

26       Extremely hazardous substances published under Section 302, hazardous  
27 chemicals described under Section 311 and 312, toxic chemicals published under  
28 Section 313 of SARA, Title III and such other hazardous/toxic substances as  
29 may later be designated by federal regulatory agencies;

30       (5) "Certification" means a formal document acknowledging that an  
31 individual has reached the minimum level of formal training and education,  
32 required under federal regulations and guidance provided through the State  
33 Emergency Response Commission, to perform his/her normally assigned duties for  
34 hazardous/toxic materials emergency response.

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1 SECTION 4. The State Emergency Response Commission shall be comprised  
2 of:

3 (a) The Director, Arkansas Department of Pollution Control and Ecology,  
4 who shall chair said Commission and the Directors of the Arkansas Department  
5 of Health, the Arkansas State Police, the State Office of Emergency Services,  
6 State Department of Labor, Arkansas Fire Training Academy, Arkansas Highway  
7 and Transportation Department, The Adjutant General of the Arkansas National  
8 Guard, or their designated representative, one (1) individual representing the  
9 Local Emergency Planning Committees, two (2) individuals from regulated  
10 entities, one (1) individual from an unregulated entity with knowledge EPCRA,  
11 and one (1) private citizen to represent the public at large.

12 (b) The State Hazardous Materials Emergency Response Commission shall  
13 establish local Emergency Planning Committees within the authorized and  
14 established local emergency services jurisdiction of the state as prescribed  
15 in Act 511 of 1973, as amended.

16 (c) Local Emergency Planning Committee membership, functions and duties  
17 shall be in accordance with the federal guidelines prescribed in the Emergency  
18 Planning and Community Right-to-Know Act of 1986, (Title III of Public Law 99-  
19 499, 42 U.S.C. of 11001, et seq.)

20 (d) The State Emergency Response Commission may promulgate such rules,  
21 regulations and guidelines as deemed necessary or desirable for the training  
22 and certification of public emergency response and recovery personnel as  
23 defined in this act, and to insure compliance with the appropriate federal  
24 guidelines and law governing such persons, and to adequately administer the  
25 requirements of the Emergency Planning and Community Right-to-Know Act of 1986  
26 in accordance with the provisions of the Arkansas Administrative Procedures  
27 Act, Arkansas Code Annotated §§25-15-201 et seq.

28 (f) Any person who is denied training certification under this Act may  
29 appeal such decisions to the Hazardous Materials Emergency Response Commission  
30 by notifying the Commission in writing within fifteen (15) days after denial  
31 of certification.

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33 SECTION 5. All provisions of this act of a general and permanent nature  
34 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
35 Revision Commission shall incorporate the same in the Code.

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SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 7. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 8. EMERGENCY. It is hereby found and determined by the General Assembly that the danger of personal injury and subsequent liability that might be incurred requires rapid implementation of the provisions of this act. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

*/s/Rep. Wren, et al*

APPROVED: 03/17/93

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